

# **EXHIBIT 4**

3 STAR AUTO SALES OF : Civil Action No.:  
4 BAYSIDE, INC. (d/b/a : 1:18-cv-05775-ERK-CLP  
5 STAR TOYOTA OF :  
6 BAYSIDE), STAR AUTO :  
7 SALES OF QUEENS, :  
8 LLC (d/b/a STAR :  
9 SUBARU), STAR HYUNDAI :  
10 LLC (d/b/a STAR :  
11 HYUNDAI), STAR NISSAN, :  
12 INC. (d/b/a STAR :  
13 NISSAN), METRO :  
14 CHRYSLER PLYMOUTH :  
15 INC. (d/b/a STAR :  
16 CHRYSLER JEEP DODGE), :  
17 STAR AUTO SALES OF :  
18 QUEENS COUNTY LLC :  
19 (d/b/a STAR FIAT) and :  
20 STAR AUTO SALES OF :  
21 QUEENS VILLAGE LLC :  
22 (d/b/a STAR :  
23 MITSUBISHI), :  
24 :  
25 Plaintiffs, :  
26 :  
27 vs. :  
28 :  
29 VOYNOW, BAYARD, WHYTE :  
30 AND COMPANY, LLP, HUGH :  
31 WHYTE, RANDALL FRANZEN :  
32 AND ROBERT SEIBEL, :  
33 :  
34 Defendants. :  
35 :  
36 - - -  
37 FRIDAY, SEPTEMBER 23, 2022

23 (Caption continued on page 2.)

25 Job No. CS5366866

JOHN KOUFAKIS

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1 Star Nissan have audited financial statements?

2 A. I would think they have the right.

3 Q. Okay. Do you have a copy of your original  
4 agreement from 1991?

5 A. Somewhere.

6 MS. FITZGERALD: Okay. So we'll make a  
7 request for that to be produced since the witness  
8 is unclear.

9 MR. FELSEN: If you have any requests, you  
10 can --

11 MS. FITZGERALD: Yeah, I'm going to send  
12 you a follow-up one.

13 BY MS. FITZGERALD:

14 Q. You mentioned that you prepare -- or your  
15 monthly financial statements that are provided to Nissan  
16 Corporation are prepared internally and provided monthly,  
17 correct?

18 A. Uh-hum.

19 Q. You have to say yes.

20 A. Yes.

21 Q. Okay. So during the time of Voynow's  
22 engagement, Voynow never prepared those monthly financial  
23 statements that were provided to Nissan Corporation,  
24 correct?

25 A. They never prepared them, but they did review

1 them.

2 Q. Okay. And on what basis do you contend that  
3 Voynow reviewed monthly statements that your dealership  
4 was sending to Nissan Corporation?

5 MR. FELSEN: Objection.

6 THE WITNESS: Could you repeat that,  
7 please?

8 BY MS. FITZGERALD:

9 Q. Sure. On what basis are you testifying that  
10 Voynow reviewed the monthly financial statements that  
11 Star Nissan provided to Nissan Corporation?

12 MR. FELSEN: Objection.

13 THE WITNESS: Well, what does that mean?

14 MR. FELSEN: You can answer if you  
15 understand.

16 THE WITNESS: Not clearly.

17 BY MS. FITZGERALD:

18 Q. Well, let me just break it down.

19 You just testify that you believe Voynow  
20 reviewed the monthly financial statements that Star  
21 Nissan provided to Nissan Corporation. So I'm asking you  
22 --

23 A. They would review them quarterly.

24 Q. Okay. And, again, on what basis are you  
25 claiming that Voynow reviewed the monthly financial

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1 A. Yeah.

2 Q. Okay. Star Nissan, Incorporated opened an  
3 account in June of 1997.

4 Do you see that?

5 A. Yeah. It also says Carmen here.

6 Q. Right. Do you have any reason to refute that a  
7 Staples credit card account was opened in the name of  
8 Star Nissan around June of 1997?

9 MR. FELSEN: Objection.

10 THE WITNESS: Not with my authority.

11 BY MS. FITZGERALD:

12 Q. I'm sorry?

13 A. Not with my authority.

14 Q. Okay. Are you aware that an account was opened  
15 in Star Nissan's name at Staples?

16 MR. FELSEN: Objection. Asked and  
17 answered. You can answer again.

18 THE WITNESS: I'm not -- I wasn't aware of  
19 a credit card. I did sign checks for Staples as  
20 the bills came in. But they would only read  
21 office supplies, office supplies, office  
22 supplies, office supplies with no detailed  
23 information. And I signed the check.

24 BY MS. FITZGERALD:

25 Q. So understanding that you were receiving monthly

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1 A. Yes.

2 Q. -- was your answer based on what Michael told  
3 you?

4 A. Yes.

5 Q. Was it based on anything else other than what  
6 Michael told you?

7 A. I trust him implicitly, and he's highly  
8 qualified.

9 MR. FELSEN: Take a quick break.

10 - - -

11 (There was a brief recess in  
12 the proceeding.)

13 - - -

14 BY MS. FITZGERALD:

15 Q. Okay. At any point did you ever raise any  
16 concerns about potential theft or fraud in any of the  
17 dealerships to Voynow?

18 A. No.

19 Q. Did you ever raise any concerns to Voynow about  
20 any of the employees of any of the dealerships?

21 A. No.

22 Q. Now, you said that you believe that Voynow was  
23 on site quarterly.

24 Is that what you believe?

25 MR. FELSEN: Objection. Asked and

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2 THE WITNESS: Approximately.

3 BY MS. FITZGERALD:

4 Q. Okay. And when you say quarterly, what is your  
5 recollection as to what months or approximate time  
6 periods you believe that Voynow was there?

7 A. I couldn't tell you.

8           Q. Okay. Do you know if they were there at the end  
9           of the year, in the middle of the year, spring, fall?  
10          What's your recollection?

11 MR. FELSEN: Objection. Asked and  
12 answered.

13 THE WITNESS: I'm not sure if it was on a  
14 regular basis, on a regular schedule.

15 BY MS. FITZGERALD:

16 Q. Okay. How many times per year do you think they  
17 were there?

20 | THE WITNESS: Four times.

21 BY MS. FITZGERALD:

22 Q. All right. And what is that based on? Like is  
23 that -- I mean, is that just based on your recollection  
24 or is it based on something that you saw in some kind of  
25 documentation?

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1 Q. Do you recall receiving something from Voynow  
2 that was in turn then passed on to a third party?

3 A. No. I just don't remember.

4 Q. Okay. It's possible. You just don't remember?

5 MR. FELSEN: Objection.

6 THE WITNESS: It's highly probable. I  
7 don't see it signed.

8 BY MS. FITZGERALD:

9 Q. Did you ever receive engagement letters or  
10 correspondence from Voynow directed to you for purposes  
11 of Star Nissan matters?

12 A. Not that I recall.

13 MS. FITZGERALD: Let's mark this.

14 So off the record.

15 - - -

16 (There was a discussion held  
17 off the record.)

18 - - -

19 BY MS. FITZGERALD:

20 Q. Okay. So we've just taken a break and you've  
21 had time to confer with your counsel. I understand you  
22 want to --

23 A. I confused the words on the tax return of, I  
24 think it was 2016, "amended with file." Amended means  
25 changed, but I don't know -- I guess file means it would

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1 gone through in.

2 - - -

3 (Exhibit J-Koufakis-8 was  
4 marked for identification.)

5 - - -

6 BY MS. FITZGERALD:

7 Q. All right. Let's put this one aside.

8 I'm showing you now Exhibit-8.

9 MR. FELSEN: Maureen, just before you ask  
10 questions, other than this Exhibit-8, are there  
11 any other documents that have been requested in  
12 discovery that you're going to be attempting to  
13 use today at a deposition?

14 MS. FITZGERALD: No.

15 Let's go off the record.

16 - - -

17 (There was a discussion held  
18 off the record.)

19 - - -

20 BY MS. FITZGERALD:

21 Q. Okay. I'm showing you what we've marked as  
22 Exhibit-8.

23 Do you recognize this document?

24 A. No.

25 MR. FELSEN: I'm just going to state for

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1 the record that this document was just given to  
2 us a few minutes ago. It was not produced prior  
3 to today.

4 MS. FITZGERALD: Yeah. And I'll just add  
5 to the record that counsel had made a request  
6 informally, not a formal document request for  
7 other engagement letters, and I just got  
8 possession of this document yesterday afternoon.

9 I have this document and a few others that I'll  
10 be getting to you early next week once I have the  
11 opportunity for somebody to Bates stamp them.

12 BY MS. FITZGERALD:

13 Q. Okay. So if I understand your answer --

14 MS. FITZGERALD: What was the answer?

15 - - -

16 (There was a discussion held  
17 off the record.)

18 - - -

19 BY MS. FITZGERALD:

20 Q. You recall receiving documents such as  
21 Exhibit-8?

22 A. No, but had I, and if it would say star 3-0'd  
23 it, they would immediately go to Michael.

24 Q. Okay. Did Star Nissan, to your knowledge,  
25 prepare -- I'm sorry, did Voynow to your knowledge

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1           Q. Okay. So going back to your question about  
2        Voynow and car sales, are you claiming that part of  
3        Voynow's responsibility was to review the sales of every  
4        vehicle sold by the dealership?

5           MR. FELSEN: Objection. Asked and  
6        answered.

7           THE WITNESS: No, but if there was a  
8        receivable, like I said, that's an anomaly.

9        BY MS. FITZGERALD:

10          Q. Okay. If there was no receivable set up for  
11        Carmen Jones' purchase would --

12          A. I would blame Vivian.

13          Q. Okay. You'd blame Vivian and not Voynow?

14          MR. FELSEN: Objection. Asked and  
15        answered.

16          THE WITNESS: With all due respect --

17          MR. FELSEN: Hypothetical.

18          THE WITNESS: With all due respect, we've  
19        given Voynow over a million and a half dollars,  
20        and in my wildest dreams I never thought anything  
21        like this would happen.

22        BY MS. FITZGERALD:

23          Q. Are you aware of any occasions where Voynow made  
24        recommendations to the dealerships as far as things that  
25        they could do to improve their business practice?

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1 A. Yeah.

2 Q. What recommendations are you aware of?

3 A. Cleaning out the parts, outstanding parts  
4 tickets. In other words, a customer would buy a part,  
5 and a lot of them were good, common customers, and they  
6 would tell you, well -- especially the collision guys --  
7 they owed a couple thousand dollars worth of parts -- oh,  
8 when I get the insurance check I'll pay you. There were  
9 things like that. And used car inventory would get aged.

10 Q. So they would make recommendations to management  
11 about things to do and follow up on?

12 A. Yes.

13 Q. And did management do that?

14 A. Yes.

15 Q. Okay. In making those recommendations, did you  
16 understand that Voynow was not going to do that; it was  
17 recommending that management do it?

18 A. Well, in those instances, they did their job and  
19 reported these -- I'll call them anomalies and areas of  
20 attention that need to be done.

21 Q. Was there ever any issue with Star Nissan and  
22 theft in the parts department?

23 MR. FELSEN: Objection.

24 THE WITNESS: It's hard to say. It could  
25 either be bad -- 'cause theft in parts department

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1 Q. And who set that budget? Did you?

2 A. Uh-hum.

3 Q. Yes?

4 A. Yes.

5 Q. Okay. And you conveyed that budget verbally to  
6 Gus?

7 A. Yes.

8 Q. And was it up to Gus to decide how that money  
9 was going to be spent?

10 A. Yes.

11 Q. Okay. Was Gus authorized to enter into any  
12 contract for services with an outside advertiser on  
13 behalf of Star Nissan?

14 A. I do not enter into any written contracts with  
15 anyone. If you don't trust me, let's not do business.  
16 Those are my answers.

17 Q. Is that view held by your brothers and your  
18 father as well?

19 MR. FELSEN: Objection.

20 THE WITNESS: I should hope so, but I  
21 couldn't guarantee it. My answer is probably.

22 BY MS. FITZGERALD:

23 Q. All right. So when Gus -- did Star Nissan use  
24 an outside person for advertising?

25 A. There was -- well, in most years there was an